

**LOWER PAXTON TOWNSHIP  
ZONING HEARING BOARD**

Meeting of February 27, 2014

Members Present

Richard Freeburn  
Greg Sirb  
Sara Jane Cate  
Alan Hansen  
Watson Fisher

Also in Attendance

James Turner  
Dianne Moran

**SE 14-02**

Applicant: Elena and Thomas Lupinetti

Address: 4240 Locust Lane  
Harrisburg, PA 17109

Property: 4240 Locust Lane  
Harrisburg, PA 17109

Article 8, 8025.C.3.a

Nonconforming Nonresidential Use

The applicant seeks a Special Exception to permit the expansion of the nonconforming non-residential use by more than 5% total floor area.

Grounds: Article 8. Nonconforming Non-residential Use

Fees Paid: January 13, 2014

Property Posted: February 17, 2014

Advertisement: Appeared in The Paxton Herald on February 12, 2014 and February 19, 2014.

The hearing began at 7:10 p.m.

Mr. Freeburn swore in Thomas Lupinetti, 4240 Locust Lane, Harrisburg, Pennsylvania, 17109. He explained that he is the owner of the business.

Mr. Jeff Staub requested to be recused from this hearing as he has a business relationship with the applicant. Mr. Freeburn questioned if that was because he was a patient. Mr. Staub answered that as well. Mr. Freeburn noted that he is a patient at that dentist office as well but he

did not feel that it would be a problem for him to hear this special exception. He recused Mr. Staub from the hearing.

Mr. Freeburn questioned if the appropriate fees were paid for this application and was the property posted. Ms. Moran advised that the appropriate fees were paid on January 13, 2014. She noted that the meeting was advertised in The Paxton Herald on February 12, 2014 and February 19, 2014. The hearing notices were posted on February 17, 2014.

Mr. Freeburn noted that Ms. Dianne Moran, Planning and Zoning Officer for Lower Paxton Township was previously sworn in.

Mr. Freeburn requested Ms. Moran to explain what codified ordinance pertains to this application. Ms. Moran answered that Article 8, paragraph 805.C.3.a, a nonconforming nonresidential use. She noted that the application seeks a special exception to permit the expansion of the nonconforming non-residential use by more than 5% total floor area.

Mr. Freeburn questioned if the applicant agreed to submit a copy of the site plan and application to the Township as exhibits. Dr. Lupinetti answered yes.

Mr. Freeburn requested Dr. Lupinetti to let the Board know what he proposes to do and why the special exception should be granted.

Dr. Lupinetti noted that the building has been in that location long before he came to use the facility. He noted that there is handicap accessibility for patients who enter from across the parking lot but many patients have to climb about 15 steps and then cross the lawn to enter in the front of the building. He noted he has more concern with handicap accessibility and the elderly who access those steps that have to go around the building and up a slight ramp to park and then they have to back themselves down as it is quite tricky with the cars parked in the back of the building. He noted that he has had complaints with the recent winter weather with the steps being outdoors. He noted that he would like to create an entrance at parking lot level, having the front entrance change from the Locust Lane main door to the parking lot door. He noted that it would provide for double accessibility to the office. He noted that people who access from the lower level would use the indoor stairwell to access the upstairs. He noted that the lower level is currently unoccupied as it was formerly a sole dentist practitioner. He noted that he would take over that space and expand the footprint to have patients seen on the lower level to prevent them from having to climb the 15 steps.

Ms. Cate questioned if the side lot would have something like you currently have. Dr. Lupinetti noted that there is a fire escape on the back of the building, rolling around to the handicap accessible entrance. Ms. Cate questioned where the back of the building is. Dr. Lupinetti answered that it would be the opposite of Locust Lane side. Mrs. Cate suggested that there is something on the side.

Mr. Freeburn questioned if the building has an elevator. Dr. Lupinetti answered no. Mr. Freeburn noted that he has never accessed the building from the bottom as he has always gone up

the steps. Dr. Lupinetti noted that the lower level is vacant at this time but it was a dental office for a sole practitioner at one time that is fully equipped with chairs, etc.

Mr. Sirb noted that the entrance would move from Locust Lane to the side of the building. He questioned what would happen to the current entrance. Dr. Lupinetti answered that an architect is working on a design noting that the current entrance will still be used for handicap accessibility unless it is deemed that he must get rid of it. He noted that he plans to remove the sidewalk and steps and plant it with grass and the front door entrance will still be there. Mr. Sirb questioned if you would still be able to use that entrance. Dr. Lupinetti answered yes. He noted that the side entrance that is on the parking lot side will be incorporated in the stairway and new entrance. Mr. Sirb questioned if that would be the new main entrance. Dr. Lupinetti answered yes.

Mr. Sirb questioned what the two-story addition is for. Dr. Lupinetti answered, on the first level; there would be a double door entrance into a vestibule providing doors into the lower level as well as to an interior stairway leading to the upper level.

Mr. Sirb questioned if anything else would be going on in the first floor level. Dr. Lupinetti noted that he would like to have a check in at the top level unless you were handicapped, and the exit area would be down below. He noted that he does not have enough space in the current check in/out reception area. He noted that he is trying to maximize the area that he has but there is a lot of confusion in the check in/out area. He noted that he could move a front office to the lower level for people to check out from. He noted that he is also looking to make the lower level a handicap area for patient services. He noted that it meets all the handicap code requirements.

Mr. Freeburn noted that the concrete steps go up the side of the building on the outside of the building and it is not an optimal situation. Dr. Lupinetti noted that he has been blessed that no one has been hurt using those outdoor steps. He noted that some people have fallen. Mr. Freeburn noted if the steps are wet they are a hazard as there is a little bit of a slope when you get to the top of the steps. He noted that it is not the best situation going across the yard especially in bad weather. He noted that the outer area is starting to fail and if he can maximize the lower level to use it as an entrance, the patients will be able to get around better in all types of weather noting that there is a handicap ramp for that level at this time.

Mr. Sirb questioned if there would be any issues using the extra office as far as parking is concerned. Ms. Moran noted that she did not count parking as this is not adding more office space. She noted when she visited the office today, the parking lot was packed. Dr. Lupinetti noted that there is a lot of traffic in and out of his office, but it should not impact his parking lot and if he had to he could make more space in the back. Ms. Moran noted that she did not know there was a vacant floor there. She suggested that she could not imagine what they would do if they needed more parking as they are at maximum occupancy. Dr. Lupinetti answered that he would not be adding any more operators; it would just spread out the area of operation to decongest what he already has.

Mr. Sirb noted that the building seems condensed, fairly packed with a lot of cars going in and out. He noted that he does not want to add to a footprint that could need more cars. He suggested that there is no room to add more parking spaces. Dr. Lupinetti noted that his goal is not to expand the business, just to use the vacant area. He noted if he was not using that area, he would rent it out to a psychiatrist or attorney, someone who would need a separate entrance and would not require many vehicles. He noted that he is trying to combine the entrances to have the ability to access the upstairs from the inside as opposed to using the outside steps.

Mr. Sirb questioned if Dr. Lupinetti would have to purchase that part of the building. Dr. Lupinetti answered no as he owns the entire building. He noted that he added on to the original building and Mr. Staub was the engineer to help determine parking.

Mr. Freeburn noted that there was no one in the audience to be heard on this docket.

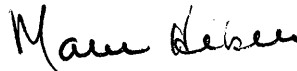
Mr. Freeburn noted that the Board has 45 days to render a decision with respect to this application and he questioned if any member of the Board wished to take action at this time on SE 14-02.

Mr. Sirb made a motion to approve the special exception for SE 14-02. Mr. Hansen seconded the motion.

Mr. Freeburn requested Mr. Turner to conduct a roll call vote: Mr. Fisher, aye; Mr. Hansen, aye; Mr. Sirb, aye; Mrs. Cate, aye; and Mr. Freeburn, aye. Mr. Freeburn noted that the special exception has been approved.

The hearing ended at 7:24 p.m.

Respectfully submitted,



Maureen Heberle

Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON  
: TOWNSHIP ZONING HEARING BOARD  
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA  
:  
ELENA and THOMAS LUPINETTI : DOCKET NO. SE 14-02

**DECISION GRANTING SPECIAL EXCEPTION**

The applicants seek a special exception to permit the expansion of a non-conforming non-residential use by more than five percent. A hearing on the application was held on February 27, 2014.

**Facts**

1. The applicants and owners of the property in question are Elena M. and Dr. Thomas P. Lupinetti of 4240 Locust Lane, Harrisburg, Pennsylvania.
2. The property in question is located on the north side of Locust Lane and consists of an irregularly shaped lot with a total lot area of 24,038 square feet. The parcel is zoned Residential, R-1, and is improved with a two story commercial structure used as dental offices.
3. Access to the upper floor of the building is by means of stairs and handicap access between the floors is unavailable.
4. The applicants propose to reconfigure the entrance to the property by relocating it to the east side of the building. This will improve accessibility of the property and within the building. The new stair tower will be enclosed, providing an entrance way protected from the elements. The proposed expansion is 400 square feet. The proposed expansion meets all setback requirements.

5. Notice of the hearing was posted and advertisement made as required by the ordinance.

6. No one other than the applicants appeared to testify in favor of or against the proposed special exception.

### **Conclusions**

1. Section 306.B.1 of the ordinance sets forth the permitted uses in the R-1 zoning district. The existing use is a non-conforming use.

2. Section 805.C.3.a. of the ordinance allows the expansion of a non-conforming use by more than 5% where the Board grants a special exception. The standards for special exceptions are set forth in Section 116.C of the ordinance.

3. The Board finds that the proposed expansion will not create hazardous traffic conditions or congestion as no expansion of the number of treatment rooms is proposed. The proposed change to the entrance will improve internal circulation and parking.

4. There will be no substantial change in the character of the surrounding residential neighborhood. The impact of the addition is purely internal to the site. There is no adverse effect upon the public safety and in fact hazards are being eliminated by creating a more accessible entrance which is protected from the elements. No natural features will be distributed by the expansion.

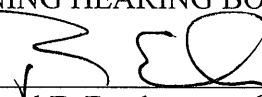
### **Decision**

In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the special exception should be and is

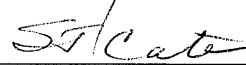
hereby granted allowing the erection of a 400 square foot addition in strict conformity with the plans and testimony submitted to the Board.

Date: 3-18-14

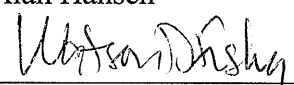
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ZONING HEARING BOARD

  
Richard E. Freeburn

  
Gregory P. Sirb

  
Sara Jane Cate

  
Alan Hansen

  
Watson Fisher

Board member Staub abstained from participating in this matter.